
ROSS, DIXON & BELL, LLP

550 West B Street, Suite 400 • San Diego, CA 92101-3599 • *p* (619) 235-4040 *f* (619) 231-8796

JASON S. HARTLEY
DIRECT DIAL: (619) 235-4040
EMAIL: JHARTLEY@RDBLAW.COM

SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING
WATER AND TOXIC ENFORCEMENT ACT OF 1986
(Cal Health & Saf. Code §§ 25249.5 *et seq.*) ("Proposition 65")

February 8, 2008

Barbara A. Turf
President
Gordon Segal
CEO
Crate & Barrel, Inc.
Corporate Headquarters
1250 Techny Road
Northbrook, IL 60062

AND THE PUBLIC PROSECUTORS LISTED ON THE ATTACHED CERTIFICATE OF SERVICE

Re: Consumer Product Exposure to Lead

To Whom It May Concern:

This letter constitutes notice that Crate & Barrel, Inc. ("C&B") has violated and continues to violate provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code §§ 25249.5 *et seq.* ("Proposition 65"). Specifically, this entity has violated and continues to violate the warning requirement of § 25249.6 of the California Health and Safety Code, which provides, "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual..." This notice satisfies a prerequisite for Daniel Estes to commence an action against C&B in any Superior Court of California to enforce Proposition 65. Upon information and belief, the violations addressed by this notice have occurred in at least the following California counties: Placer, San Francisco, Contra Costa, Alameda, San Mateo, Santa Clara, San Bernardino, Los Angeles, Orange, Riverside and San Diego. Daniel Estes is serving this notice upon each person or entity responsible for the alleged violations, the California Attorney General, the district attorney for every county where the alleged violations occurred, and the City Attorney for every city with a population (according to the most recent decennial census) of over 750,000 located within counties where the alleged violations occurred.

Barbara A. Turf
February 8, 2008

By serving this notice, Daniel Estes is acting "in the public interest" pursuant to Proposition 65. C&B may contact Daniel Estes, P.O. Box 1252, Rancho Santa Fe, CA 92067, telephone number (760)728-5536 through his attorneys, Jason Hartley, Esq., 550 West B St., Suite 400, San Diego, CA 92101, telephone number (619) 235-4040.

Attached to this notice is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary." This summary provides general information about Proposition 65.

From a moment currently unknown to the public, and continuing to the present, C&B and/or its predecessor entity or entities have caused consumer product exposure to the carcinogen lead. Lead has been listed by the Governor of the State of California as a chemical known to the State of California to cause cancer or reproductive toxicity and has been so listed for more than twelve months. Specifically, C&B sells flatware and other tableware that contain lead to consumers throughout California. The principal route of exposure to lead is through ingestion of consumables that came in contact with said flatware and other tableware. There may also be a risk of dermal exposure or exposure through inhalation if a lead-containing product is broken or destroyed. The location of the alleged exposures are varied, occurring within several counties of the state of California

Accordingly, C&B, which has ten or more employees, has knowingly and intentionally exposed, and continues to expose, California consumers to concentrations of lead that exceed safe harbor levels without first providing clear and reasonable warnings as required by Proposition 65. C&B was and is required to provide clear and reasonable warnings to all customers who purchase flatware or other tableware that contain excessive amounts of lead stating that such products contain chemicals known to the State of California to cause cancer.

Pursuant to Health and Safety Code §25249.7(d)(1), the undersigned counsel hereby include the attached Certificate of Merit, which states that the undersigned counsel have consulted with one or more persons with relevant and appropriate experience or expertise who has or have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of this notice, and that, based on that information, the undersigned counsel believe there is a reasonable and meritorious case. Factual information sufficient to establish the basis of this Certificate of Merit is included with the notice that is served on the Attorney General and is provided to that office in confidence and is not to be disclosed except according to law.

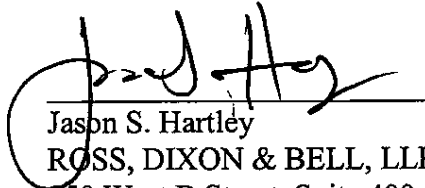
Based on the allegations set forth in this Notice, Daniel Estes intends to file a citizen enforcement lawsuit against the violator named herein unless the alleged violator enters into a binding written agreement to remedy the violations alleged herein by: (1) recalling products already sold; (2) providing a clear and reasonable warning for products sold in the future or reformulating such products to eliminate the lead exposure; (3) paying an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b); (4) paying attorneys' fees; and (5) providing for third party testing of all flatware

Barbara A. Turf
February 8, 2008

and/or tableware C&B sells for lead exposure. If the alleged violator is interested in resolving this dispute without resort to litigation, please feel free to contact Daniel Estes through his counsel identified below. It should be noted that Daniel Estes cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District Attorney or City Attorney who received this 60-day notice. Therefore, while reaching an agreement with Daniel Estes will resolve his claims, such agreement may not satisfy the public prosecutors.

Through this notice, Daniel Estes provides C&B and the appropriate government authorities notice of his intent to sue 60 days prior to the commencement of an action. In the absence of any action by the appropriate governmental authorities within 60 days of the sending of this notice, Daniel Estes may file suit.

Sincerely,



Jason S. Hartley
ROSS, DIXON & BELL, LLP
550 West B Street, Suite 400
San Diego, CA 92101
Tel: (619) 235-4040

cc:

Attachments

Barbara A. Turf
February 8, 2008

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

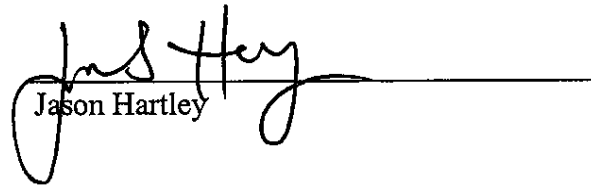
I, Jason S. Hartley, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the party(s) identified in the notice(s) has violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney representing the noticing party.
3. I have consulted with at least one person with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.
4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: February 8, 2008

By:

Jason Hartley

A handwritten signature in black ink, appearing to read "Jason Hartley", is written over a horizontal line. The signature is stylized with a large, looped initial "J" and a trailing flourish.

Barbara A. Turf
February 8, 2008

**Person consulted with relevant and appropriate experience or expertise regarding alleged
exposure to lead in flatware and tableware**

Jim Polansky
Laboratory Director
Expert Chemical Analysis, Inc
10366 Roselle Street, Suite C
San Diego, CA 92121

PROPOSITION 65 SAFE HARBOR LEVELS:

No Significant Risk Levels for
Carcinogens and Maximum
Allowable Dose Levels for
Chemicals Causing Reproductive
Toxicity

January 2008



Reproductive and Cancer Hazard
Assessment Branch
Office of Environmental Health Hazard
Assessment
California Environmental Protection
Agency

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Proposition 65 Safe Harbor Levels Development

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65 or the Act). In that role, OEHHA has developed Proposition 65 safe harbor levels -- no significant risk levels (NSRLs) for carcinogens and maximum allowable dose levels (MADLs) for chemicals that cause reproductive toxicity. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000, assuming lifetime (70-year) exposure at the level in question. The MADL is the level at which chemicals listed for reproductive toxicity would have no observable effect assuming exposure at 1,000 times that level. The NSRLs and MADLs are promulgated in Title 22, California Code of Regulations*, sections 12705 and 12805 respectively to assist interested parties in determining whether warnings are required for exposures to listed chemicals, and whether discharges to sources of drinking water are prohibited.

Safe harbor levels may be based on risk assessments conducted outside OEHHA, as provided for in Sections 12705(b), 12705(c), and 12805. In some cases, this can expedite safe harbor development. However, it should be noted that the process of review and consideration of existing risk assessments can be a lengthy one, and will depend on the complexity of the scientific information underlying the assessment, as well as on available resources.

This document provides the status of the development and adoption of intake levels calculated for all chemicals on the Proposition 65 list. In units of micrograms per day ($\mu\text{g/day}$), Part A reports NSRLs adopted in regulation for carcinogens and Part B reports MADLs adopted in regulation for chemicals that cause reproductive toxicity.

Parts C and D of this document give priority levels for development of dose response assessments for chemicals that cause cancer and reproductive toxicity, respectively. OEHHA assigns priority levels based on the availability and quality of scientific data for dose-response assessments, potential for exposure, resources available to perform the assessment, needs expressed by interested parties and input from the public and the Attorney General's office. Priority assignments change as assessments are completed or the basis for the priority changes. Interested parties are invited to recommend changes in priority levels. In general, OEHHA will give priority to chemicals that are newly added to the Proposition 65 list and propose safe harbor levels for them within one year of their addition to the list.

Parts C and D include safe harbor levels that have been proposed for adoption in regulation.

This report will be updated on a regular basis.

* All further section references are to Title 22 of the California Code of Regulations unless otherwise indicated.

A. No Significant Risk Levels (NSRLs) Adopted in Regulation for Carcinogens

The table below lists NSRLs for Proposition 65 carcinogens in regulation (Sections 12705 and 12709). These levels are intended to provide "safe harbors" for persons subject to the Act, and do not preclude the use of alternative levels that can be demonstrated by their users as being scientifically valid.

A three-tiered procedure for development of NSRLs is currently in place. NSRLs may be based on a *de novo* dose response assessment conducted or reviewed by OEHHA (Section 12705(b)), an assessment conducted by another state or federal agency (Section 12705(c)), or an expedited process conducted by OEHHA (Section 12705(d)). The last column of the table below indicates which of these processes was used to develop the NSRL for each chemical. NSRLs represent the daily intake level calculated to result in a cancer risk of one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime.

NSRLs for chemicals in bold have been adopted since the last report. As chemicals are removed from the Proposition 65 list, the regulatory process to remove the safe harbor level from regulation will be initiated.

Carcinogen	Level (µg/day)	Section
A-alpha-C (2-Amino-9H-pyrido[2,3-b]indole)	2	12705(d)
Acetaldehyde	90 (inhalation)	12705(c)
Acetamide	10	12705(d)
2-Acetylaminofluorene	0.2	12705(d)
Acrylamide	0.2	12705(c)
Acrylonitrile	0.7	12705(b)
Actinomycin D	0.00008	12705(d)
AF-2; [2-(2-furyl)-3(5-nitro-2-furyl)acrylamide]	3	12705(d)
Aldrin	0.04	12705(b)
2-Aminoanthraquinone	20	12705(d)
<i>o</i> -Aminoazotoluene	0.2	12705(d)
4-Aminobiphenyl	0.03	12705(d)
3-Amino-9-ethylcarbazole hydrochloride	9	12705(d)
1-Amino-2-methylantraquinone	5	12705(d)
2-Amino-5-(5-nitro-2-furyl)-1,3,4-thiadiazole	0.04	12705(d)
Amitrole	0.7	12705(d)
Aniline	100	12705(c)
<i>o</i> -Anisidine	5	12705(d)
<i>o</i> -Anisidine hydrochloride	7	12705(d)
Aramite	20	12705(d)
Arsenic	0.06 (inhalation)	12705(b)
	10 (except inhalation)	12709
Asbestos	100 fibers/day (inhalation)	12705(b)
NSRL for fibers ≥ 5 micrometers (µm) long and 0.3 wide, with a length/width ratio ≥ 3:1 as measured by phase contrast microscopy.		
Auramine	0.8	12705(d)
Azaserine	0.06	12705(d)
Azathioprine	0.4	12705(d)
Azobenzene	6	12705(c)

Carcinogen	Level (µg/day)	Section
Epichlorohydrin	9	12705(b)
Estradiol 17b	0.02	12705(d)
Ethyl-4,4'-dichlorobenzilate (Chlorobenzilate)	7	12705(d)
Ethylene dibromide	0.2 (oral)	12705(b)
	3 (inhalation)	12705(b)
Ethylene oxide	2	12705(b)
Ethylene thiourea	20	12705(d)
Ethyleneimine	0.01	12705(d)
Folpet	200	12705(c)
Formaldehyde (gas)	40	12705(c)
2-(2-Formylhydrazino)-4-(5-nitro-2-furyl)thiazole	0.3	12705(d)
Furmecyclox	20	12705(c)
Glu-P-1 (2-Amino-6-methyldipyrdo[1,2-a:3',2'-d]imidazole)	0.1	12705(d)
Glu-P-2 (2-Aminodipyrdo[1,2-a:3',2'-d]-imidazole)	0.5	12705(d)
Gyromitrin (Acetaldehyde methylformylhydrazone)	0.07	12705(d)
HC Blue 1	10	12705(d)
Heptachlor	0.2	12705(c)
Heptachlor epoxide	0.08	12705(c)
Hexachlorobenzene	0.4	12705(b)
Hexachlorocyclohexane		
alpha isomer	0.3	12705(c)
beta isomer	0.5	12705(c)
gamma isomer	0.6	12705(c)
technical grade	0.2	12705(b)
Hexachlorodibenzodioxin	0.0002	12705(b)
Hexachloroethane	20	12705(d)
Hydrazine	0.04	12705(c)
Hydrazine sulfate	0.2	12705(c)
Hydrazobenzene (1,2-Diphenylhydrazine)	0.8	12705(d)
IQ (2-Amino-3-methylimidazo[4,5-f]quinoline)	0.5	12705(d)
Isobutyl nitrite	7.4	12705(d)
Lasiocarpine	0.09	12705(d)
Lead	15 (oral)	12705(b)
Lead acetate	23 (oral)	12705(b)
Lead phosphate	58 (oral)	12705(b)
Lead subacetate	41 (oral)	12705(b)
Me-A-alpha-C (2-Amino-3-methyl-9H-pyrido[2,3-b]indole)	0.6	12705(d)
MeIQ (2-amino-3,4-dimethylimidazo-[4,5-f]quinoline)	0.46	12705(d)
MeIQx (2-Amino-3,8-dimethylimidazo[4,5-f]quinoxaline)	0.41	12705(d)
Melphalan	0.005	12705(d)
2-Methylaziridine (Propyleneimine)	0.028	12705(b)
Methyl carbamate	160	12705(d)

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

CHEMICALS KNOWN TO THE STATE TO CAUSE CANCER OR REPRODUCTIVE TOXICITY
SEPTEMBER 28, 2007

The Safe Drinking Water and Toxic Enforcement Act of 1986 requires that the Governor revise and republish at least once per year the list of chemicals known to the State to cause cancer or reproductive toxicity. The identification number indicated in the following list is the Chemical Abstracts Service (CAS) Registry Number. No CAS number is given when several substances are presented as a single listing. The date refers to the initial appearance of the chemical on the list. For easy reference, chemicals which are shown underlined are newly added. Chemicals or endpoints shown in ~~strikeout~~ were placed on the Proposition 65 list on the date noted, and have subsequently been removed.

Chemical	Type of Toxicity	CAS No.	Date Listed
A-alpha-C (2-Amino-9H-pyrido [2,3-b]indole)	cancer	26148-68-5	January 1, 1990
Acetaldehyde	cancer	75-07-0	April 1, 1988
Acetamide	cancer	60-35-5	January 1, 1990
Acetazolamide	developmental	59-66-5	August 20, 1999
Acetochlor	cancer	34256-82-1	January 1, 1989
Acetohydroxamic acid	developmental	546-88-3	April 1, 1990
2-Acetylaminofluorene	cancer	53-96-3	July 1, 1987
Acifluorfen	cancer	62476-59-9	January 1, 1990
Acrylamide	cancer	79-06-1	January 1, 1990
Acrylonitrile	cancer	107-13-1	July 1, 1987
Actinomycin D	cancer	50-76-0	October 1, 1989
	developmental		October 1, 1992
AF-2;[2-(2-furyl)-3-(5-nitro-2-furyl)] acrylamide	cancer	3688-53-7	July 1, 1987
Aflatoxins	cancer	---	January 1, 1988
Alachlor	cancer	15972-60-8	January 1, 1989
Alcoholic beverages, when associated with alcohol abuse	cancer	---	July 1, 1988
Aldrin	cancer	309-00-2	July 1, 1988
All-trans retinoic acid	developmental	302-79-4	January 1, 1989
Allyl chloride	cancer	107-05-1	January 1, 1990
<u>Delisted October 29, 1999</u>			
Alprazolam	developmental	28981-97-7	July 1, 1990
Altretamine	developmental, male	645-05-6	August 20, 1999
Amantadine hydrochloride	developmental	665-66-7	February 27, 2001
Amikacin sulfate	developmental	39831-55-5	July 1, 1990
2-Aminoanthraquinone	cancer	117-79-3	October 1, 1989
p-Aminoazobenzene	cancer	60-09-3	January 1, 1990
o-Aminoazotoluene	cancer	97-56-3	July 1, 1987
4-Aminobiphenyl (4-amino-diphenyl)	cancer	92-67-1	February 27, 1987
1-Amino-2,4-dibromo-anthraquinone	cancer	81-49-2	August 26, 1997
3-Amino-9-ethylcarbazole hydrochloride	cancer	6109-97-3	July 1, 1989

Hexachlorobenzene	cancer	118-74-1	October 1, 1987
	developmental		January 1, 1989
Hexachlorocyclohexane (technical grade)	cancer	---	October 1, 1987
Hexachlorodibenzodioxin	cancer	34465-46-8	April 1, 1988
Hexachloroethane	cancer	67-72-1	July 1, 1990
2,4-Hexadienal (89% trans, trans isomer; 11% cis, trans isomer)	cancer	---	March 4, 2005
Hexamethylphosphoramide	cancer	680-31-9	January 1, 1988
	male		October 1, 1994
Histrelin acetate	developmental	---	May 15, 1998
Hydramethylnon	developmental, male	67485-29-4	March 5, 1999
Hydrazine	cancer	302-01-2	January 1, 1988
Hydrazine sulfate	cancer	10034-93-2	January 1, 1988
Hydrazobenzene (1,2-Diphenylhydrazine)	cancer	122-66-7	January 1, 1988
1-Hydroxyanthraquinone	cancer	129-43-1	May 27, 2005
Hydroxyurea	developmental	127-07-1	May 1, 1997
Idarubicin hydrochloride	developmental, male	57852-57-0	August 20, 1999
Ifosfamide	developmental	3778-73-2	July 1, 1990
Iodine-131	developmental	10043-66-0	January 1, 1989
Indeno[1,2,3-cd]pyrene	cancer	193-39-5	January 1, 1988
Indium phosphide	cancer	22398-80-7	February 27, 2001
IQ (2-Amino-3-methylimidazo [4,5-f] quinoline)	cancer	76180-96-6	April 1, 1990
Iprodione	cancer	36734-19-7	May 1, 1996
Iprovalicarb	cancer	140923-17-7 140923-25-7	June 1, 2007
Iron dextran complex	cancer	9004-66-4	January 1, 1988
Isobutyl nitrite	cancer	542-56-3	May 1, 1996
Isoprene	cancer	78-79-5	May 1, 1996
Isosafrole <u>Delisted December 8, 2006</u>	cancer	120-58-1	October 1, 1989
Isotretinoin	developmental	4759-48-2	July 1, 1987
Isoxaflutole	cancer	141112-29-0	December 22, 2000
Lactofen	cancer	77501-63-4	January 1, 1989
Lasiocarpine	cancer	303-34-4	April 1, 1988
Lead	developmental, female, male	---	February 27, 1987
Lead and lead compounds	cancer	---	October 1, 1992
Lead acetate	cancer	301-04-2	January 1, 1988
Lead phosphate	cancer	7446-27-7	April 1, 1988
Lead subacetate	cancer	1335-32-6	October 1, 1989
Leuprolide acetate	developmental, female, male	74381-53-6	August 26, 1997
Levodopa	developmental	59-92-7	January 29, 1999
Levonorgestrel implants	female	797-63-7	May 15, 1998
Lindane and other hexachloro- cyclohexane isomers	cancer	---	October 1, 1989
Linuron	developmental	330-55-2	March 19, 1999
Lithium carbonate	developmental	554-13-2	January 1, 1991
Lithium citrate	developmental	919-16-4	January 1, 1991
Lorazepam	developmental	846-49-1	July 1, 1990
Lovastatin	developmental	75330-75-5	October 1, 1992



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California, during the last decade, enacted landmark legislation to prevent childhood lead poisoning. This legislation has established the Childhood Lead Poisoning Prevention Branch (CLPPB) a children's environmental health program offering multi-layered solutions to this complex problem.

California Childhood Lead Poisoning Prevention Branch: Lead in Tableware



Lead in Tableware - Regulation Information

Regulation of Lead in Tableware

Several laws and regulations govern the sale of tableware that contains lead in California. Each regulation establishes standards for the amount of lead that can pass from tableware into food. Enforcement methods for each standard vary among the regulatory agencies. This document provides a brief overview of the regulations and agencies involved, what standards for lead in tableware each agency uses, and what they mean. Included with the description of each agency is information on how to obtain the text of the entire regulation or enforcement document. As with any regulated industry, compliance is not universal. Consumers are encouraged to contact the regulatory agencies if they suspect a violation.

1. U.S. Food and Drug Administration (FDA)

The U.S. Food and Drug Administration (FDA) sets standards at the national level for the amount of lead that can pass out of, or "leach," from dishes. Tableware with lead levels greater than these standards cannot legally be sold in the U.S. The FDA regulations cover only tableware that is imported or that is brought into the state for sale. The standards apply only to items that are used for foods and beverages. They do not apply to pieces that either cannot hold liquids or are not intended to hold liquids, such as salt shakers, cookie jars, butter dishes, etc. See the table below for the FDA standards for lead in ceramicware.

Decorative ceramics

The FDA has labeling rules for ornamental or decorative ceramics that are not intended for food use. These items must either (1) be permanently labeled with a logo or statement that they are unsuitable for food use, or (2) be made incapable of holding liquid. If an item is clearly intended for food use, such as a bean pot, labeling it is not sufficient, however. It must be made unusable, for example, by having a hole drilled through any surface that could hold liquid.

Enforcement

These regulations affect manufacturers, retailers, distributors, and importers. The FDA may seize and destroy goods, and it may detain or refuse entry of imports. The FDA may also place foreign factories under an Import Alert

that causes the detention of future imports of their ceramics.

FDA district offices enforce these regulations. To report a possible violation of FDA standards or for questions from regulated industry, contact your local FDA District Office in Northern California: (510) 337-6741; or Southern California: (310) 971-2280.

You can also use these phone numbers to request the complete texts of related regulations, such as the **FDA Compliance Policy Guidelines for Lead in Ceramics** (CPG 7117.07, Sec. 545.450). FDA information can also be accessed on the World Wide Web at: <http://www.fda.gov>

2. California Proposition 65

Proposition 65, also known as the Safe Drinking Water and Toxic Enforcement Act, was passed by California voters in 1986. It requires businesses to inform people when they are exposed to chemicals (including lead) known to cause cancer, birth defects, or reproductive harm. Proposition 65 requires makers of ceramic tableware that contains lead glazes, paints, or enamels to warn consumers if significant amounts of lead leach from the tableware into foods or beverages placed in it. Proposition 65 also applies to glassware for food use, particularly crystal. The standards established by Proposition 65 are significantly stricter than those of the FDA.

Warning requirements

Proposition 65 does not ban any tableware from sale. However, it does require that a warning be provided if lead leaches from the food surface in amounts greater than Proposition 65 levels (see table below). A yellow triangle like a "Yield" sign must be placed on or next to these dishes when they are sold or displayed for sale. In addition, a sign must be displayed in retail stores explaining that dishes with the triangle will expose users to lead. Proposition 65 warnings for mail order purchases must be posted in the catalogue or on the packing invoice. The manufacturer must tell retailers that its products require a warning and provide the necessary warning signs and stickers. Businesses with fewer than 10 employees are exempt from these warning requirements, so the consumer must be cautious when buying unmarked tableware in small stores.

Enforcement

There is no system of inspections to monitor compliance with Proposition 65. Lawsuits are the primary means of enforcement. Lawsuits to enforce Proposition 65 may be brought by the State Attorney General and local District Attorneys. Private citizens may sue if they notify public prosecutors and the potential defendant(s) of a violation, and the public prosecutors do not sue within 60 days.

To report a possible violation of Proposition 65, contact the California Attorney General's office at (510) 873-6321.

You can also use this phone number to request the complete compliance guidelines for businesses that manufacture, import or sell tableware (**Compliance With Proposition 65 Standards For Lead Exposure From Ceramic Tableware, March 26, 1993**).

3. The California Tableware Safety Law

The California Tableware Safety Law (Assembly Bill 3659) came into effect on July 1, 1991. It prohibits the sale in California of tableware that leaches lead or cadmium in excess of levels specified in FDA guidelines for tableware (see table below). This law applies to more types of tableware than the FDA regulations. It includes any glazed ceramicware, enameled metalware, or pewter products that may come into contact with food or drink. Unlike the FDA regulations, it also covers tableware that is made in California.

Marking requirements

The Tableware Safety Law requires manufacturers or importers of tableware into California to permanently mark each piece containing lead or cadmium with their company names or trademarks. They must also file a copy of the name or trademark with the Food and Drug Branch of the Department of Health Services. This allows the Food and Drug Branch to track the origin of suspect tableware.

Enforcement

The Tableware Safety Law is enforced by the California Department of Health Services Food and Drug Branch. Tableware sold or offered for sale in California with lead levels that exceed FDA standards, or tableware that is not marked in accordance with the Tableware Safety Law, is subject to enforcement action. Actions may include embargo of unsafe tableware, as well as civil, criminal, or administrative action against the persons responsible for the violations.

To report a possible violation of the Tableware Safety Law, contact the California Department of Health Services Food and Drug Branch at (800) 495-3232.

Requests for the complete text of the law (Assembly Bill 3659) or related regulations may also be made at this number.

4. Standards for Lead In Tableware

The standards below are based on the amount of lead that can leach out of tableware and potentially into food. If the amount is greater than that listed below, the tableware is considered potentially hazardous.

Type of tableware	FDA/ California Dept. of Health Services Tableware exceeding these levels cannot legally be sold in the USA.	California Proposition 65* Tableware exceeding these levels must carry a warning when sold in California.
Flatware (plates)	3.0 ppm	0.226 ppm
Small hollowware (bowls)	2.0 ppm	0.1 ppm
Large hollowware (serving dishes)	1.0 ppm	0.1 ppm
Cups or mugs	0.5 ppm	0.1 ppm
Large pitchers, jugs	0.5 ppm	0.1 ppm

ppm = parts per million

* The Attorney General has used these standards to enforce the law, but they are not an officially adopted regulation.

What the numbers mean

The standards apply to the amount of lead that can leach from tableware into food. This is determined by an official laboratory test in which the food-bearing part of the dish is exposed to a mildly acidic solution (vinegar) for a specific period of time. The acidic solution is then tested to see how much lead it contains. The lead is measured in parts per million (ppm). The test does not measure how much lead is in the dish, but rather how much lead can leach into food when the dish is used.

Department of General Services Home Page

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Barbara A. Turf
February 8, 2008

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action; my business address is 550 West B Street, Suite 400, San Diego, CA 92101. On February 8, 2008, I served a copy of the following documents described as follows:

- **NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 DATED 2/6/08 TO See Attached Distribution List FROM Jason Hartley, Esq.**
- **THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (only sent to alleged violators)**
- **CERTIFICATE OF MERIT – (attachments only sent to California Attorney General's Office)**

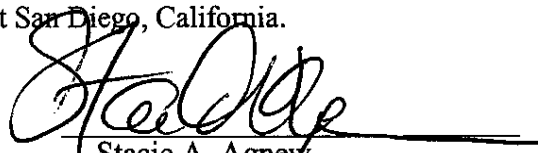
_____ BY FACSIMILE TRANSMISSION (C.R.C. Rule 2008): At the time of transmission I was at least 18 years of age and not a party to this legal proceeding. I am "readily familiar" with the firm's practice of sending and receiving facsimile documents for service of process. Under that practice, the document(s) were caused to be sent to the parties via facsimile machine.

 X VIA U.S. MAIL (C.C.P. §1013a(1) and (3)): I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing with the United States Postal Service; and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business. A true and correct copy thereof was enclosed in sealed envelope(s) and addressed as follows.

_____ BY OVERNIGHT DELIVERY MAIL (C.C.P. §1013(c)): I am readily familiar with the practice of this firm for collection and processing of correspondence for mailing by FedEx. Pursuant to this practice, correspondence would be deposited in the a FedEx pickup location in San Diego, California in the ordinary course of business on the date of this declaration. A true and correct copy thereof was enclosed in sealed envelope(s) and addressed as follows.

SEE ATTACHED DISTRIBUTION LIST

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 8, 2008 at San Diego, California.


Stacie A. Agnew

Barbara A. Turf
February 8, 2008

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